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LOK SABHA

The following report of the Select Committee on the Bill to provide, for the levy of a tax on expenditure was presented to Lok Sabha on 26th August, 1957:—

Composition of the Select Committee.

1. Shri Asoke K. Sen—*Chairman.*
2. Shri H. C. Heda
3. Shri Prafulla Chandra Borooah
4. Shri R. Jagannath Rao
5. Shri Muhammed Khuda Buksh
6. Shri Narendrabhai Nathwani
7. Shri Shivram Rango Rane
8. Shri Anand Chandra Joshi
9. Dr. G. S. Melkote
10. Shri G. S. Musafir
11. Shri G. D. Somani
12. Shri Radheshyam Ramkumar Morarka
13. Shri Feroze Gandhi
14. Shri C. D. Pande
15. Shri Tribhuan Narayan Singh
16. Shri R. M. Hajarnavis
17. Shri M. R. Krishna
18. Shrimati Tarkeshwari Sinha
19. Dr. Ram Subhag Singh

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20. Shri Nemi Chandra Kasliwal
21. Shri Saif F. B. Tyabji
22. Shri Fatehsinhrao Pratapsinhrao Gaekwad
23. Shri K. Periaswami Gounder
24. Shri B. R. Bhagat
25. Shri U. Srinivasa Malliah
26. Shri N. G. Ranga
27. Shri T. C. N. Menon
28. Shri Prabhat Kar
29. Shri Bimal Comar Ghose
30. Shri Laisram Achaw Singh
31. Shri R. K. Khadilkar
32. Shri M. R. Masani
33. H. H. Maharaja Sri Karni Singhji of Bikaner
34. Dr. A. Krishnaswami
35. Shri T. T. Krishnamachari.

DRAFTSMAN

Shri G. R. Rajagopaul, *Additional Secretary and Chief
Draftsman, Ministry of Law.*

SECRETARIAT

Shri P. K. Patnaik, *Under Secretary.*

REPORT OF THE SELECT COMMITTEE

I, the Chairman of the Select Committee to which the *Bill to provide for the levy of a tax on expenditure was referred, having been authorised to submit the report on their behalf, present their Report, with the Bill as amended by the Committee annexed thereto.

2. The Bill was introduced in the Lok Sabha on the 15th May, 1957. The motion for reference of the Bill to a Select Committee was moved in the House by Shri T. T. Krishnamachari on the 17th July, 1957 and was discussed and adopted on the same day.

3. The Committee held 12 sittings in all.

4. The first sitting of the Committee was held on the 23rd July, 1957 to draw up a programme of work. The Committee at this sitting decided to hear evidence of associations desirous of presenting their suggestions or views before the Committee. The Chairman was authorised to decide, after examining the memoranda submitted by them, as to which of the associations should be called to tender oral evidence before the Committee.

5. The Committee at their second and eighth sittings held on the 31st July and 20th August, 1957, respectively had a general review of the provisions of the Bill.

6. At the 3rd, 4th, 5th and 6th sittings, the Committee heard the evidence tendered by 17 associations.

The Committee have decided to lay the whole of the evidence tendered before them on the Table of the House.

7. 27 Memoranda/representations on the Bill were received by the Committee from different associations/individuals.

8. The Committee considered the Bill clause by clause at their sittings held on the 21st, 22nd and 23rd August, 1957.

9. The report of the Committee was to be presented by the 12th August, 1957. The Committee were granted extension of time on the 12th August, 1957 upto the 26th August, 1957.

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10. The Committee considered and adopted the Report on the 25th August, 1957.

11. The observations of the Committee with regard to the principal changes proposed in the Bill are detailed in the succeeding paragraphs.

12. *Clause 2.—(1) item (g).*—The Committee feel that the husband or wife of the assessee, as the case may be, should also be included in the category of dependants.

The item has been amended accordingly.

(2) *item (h).*—It has been clarified that the expenditure liable to tax will include expenditure incurred in cash or on credit.

(3) *item (n).*—The Committee feel that the definition of 'previous year' should also cover an accounting year which ends after the commencement of the assessment year.

The item has been amended accordingly.

(4) *New item (o).*—A definition of 'taxable expenditure' which is the basis of the charge has been added.

13. *Clause 3.*—The proviso to this clause as in the original Bill provided that no expenditure-tax would be payable if the total income under the Income-tax Act did not exceed Rs. 60,000. While agreeing that such a proviso is necessary to prevent harassment to assesseees and to make the administration of the Act somewhat easier, the Committee feel that no distinction is necessary between income liable to income-tax and that which is not so liable. In the opinion of the Committee, what should be taken into account is the available income from all sources including receipts of a casual and non-recurring nature.

Accordingly, after obtaining the recommendation of the President under article 117(1) of the Constitution, the proviso has been amended restricting the liability to expenditure-tax to only such persons whose net income from all sources after the payment of taxes exceeds rupees thirty-six thousand.

The new sub-clause 2 is clarificatory in nature.

14. *Clause 4.*—The Committee feel that small items of expenditure incurred for the benefit of the assessee when the total amount thereof does not exceed rupees five thousand in any year should not be included in the taxable expenditure.

Paragraph (i) has been amended accordingly.

Under clause 5, gifts, donations etc., are exempted from expenditure-tax. Consequently, the Committee feel that provision should be made whereby expenditure incurred for the benefit of the assessee or any of his dependants out of gifts, donations etc. made by the assessee should be treated as the expenditure of the assessee as otherwise it may be possible for an assessee to avoid expenditure-tax if instead of directly incurring the expenditure on his family, he makes the gift to a dependant for incurring expenditure on the personal requirements of himself or a dependant.

Paragraph (ii) which is inserted after obtaining the recommendation of the President under article 117(1) of the Constitution makes provision for preventing such evasions.

The Explanation to this clause makes it clear that it is not its intention to include within its scope any expenditure by way of customary hospitality or any expenditure which is of a trivial or consequential nature.

15. *Clause 5.*—This clause exempts expenditure of certain kinds from expenditure-tax. The original clause provided for exemption of certain items. The Committee feel that the list of items in the original clause should be expanded to cover expenditure of various kinds which are of a somewhat impersonal nature and should therefore be exempted. The original clause has therefore been substituted by a new clause.

The original items have been retained with certain modifications by way of amplification.

The new items of expenditure which in the opinion of the Committee should also be excluded from the Expenditure-tax are items relating to matters like expenditure on products of cottage industries, payment of premiums on certain types of policies, purchase and maintenance of live-stocks, expenditure for any public purpose of a charitable or religious nature, certain types of entertainment allowance, expenditure out of privy purses in certain cases and expenditure in connection with elections.

The new items (b), (c), (d), (g), (l), (m), (n), (q) and (r) make provision for this purpose.

16. *Clause 6.*—*Sub-clause (1).* (1) *Item (a).* This corresponds to original item (a) with the modification that the provision requiring fines or penalties to be included in the taxable expenditure has now been omitted.

(2) *New item (b)*. In the opinion of the Committee, any expenditure in connection with civil and criminal proceedings to which an assessee is a party should not be liable to expenditure-tax.

(3) *Item (c)* [*Original item (b)*] This modifies the original item by including the marriage expenses of the assessee himself also and incidentally clarifies it.

(4) *Item (d)*. This corresponds to original item (c).

(5) *New items (e), (f) and (g)*. These are new items and they provide for the deduction of expenditure incurred on the maintenance of one's parents, on the medical treatment of the assessee or any of his dependants or parents and in respect of education of any dependant abroad.

(6) *Item (h)* [*Original item (d)*]. The original item did not provide for any ceiling, but merely provided a basic allowance of rupees twenty-four thousand plus a further allowance if claimed, of rupees five thousand in respect of each dependant.

The Committee feel that an individual should be allowed a basic allowance of rupees thirty thousand and in the case of a Hindu undivided family, the basic allowance should be rupees thirty thousand for the Karta and his wife and children plus rupees three thousand for every additional coparcener limited to a ceiling of rupees sixty thousand for the family as a whole.

This item has been amended accordingly after obtaining the recommendation of the President under article 117(1) of the Constitution.

(7) *New item (i)*. The Committee feel that expenditure incurred outside India by persons who are not citizens of India but are resident in India should be allowed to be deducted subject to a limit of rupees ten thousand to the extent to which such expenditure is not admissible under any other items in this clause.

This item makes provision in this behalf.

New Sub-clause 2. The Committee feel that expenditure-tax being a new levy, persons who have been accustomed to a high standard of living in the past may take some time to adjust themselves to new standards. It is, therefore, desirable to give them some time to adjust their expenditure. It is therefore proposed to give them an option of claiming that the deductions under this clause in their case will be equal to 75% of the average annual expenditure of the last three years or rupees seventy-five thousand, whichever is less.

New Sub-clause 3.—This provides for the gradual lowering of this limit of rupees seventy-five thousand until it is brought down to the level of the allowances otherwise permissible.

New Sub-clause 4.—This provides for relief in cases where taxes have been paid in any foreign country under any law relating to income, wealth or expenditure.

17. With respect to the procedural clauses of the Bill, the Committee feel that they should follow the pattern of the Wealth-tax Bill as amended by the Select Committee.

18. *Clauses 8, 9 and 10*—The amendments made in these clauses are clarificatory.

19. *Clause 15.*—This amendment seeks to bring sub-clause (4) into line with the Indian Income-tax Act, 1922, so that the notice calling for accounts etc. is not issued to an assessee until he has made the voluntary return or has been served with a special notice for making such a return.

20. *Clause 16.*—The Committee feel that in order to avoid any harassment or hardship to the assessee, a time limit should be fixed for reopening cases of expenditure escaping assessment. A period of eight years in respect of cases falling under clause (a) and four years in respect of cases falling under clause (b) appear to be reasonable for this purpose in the opinion of the Committee.

The clause has been amended accordingly.

21. *Clause 17.*—This clause should vest the powers which are now vested in the Expenditure-tax Officer on the Appellate Assistant Commissioner, Commissioner and the Appellate Tribunal also. This is in accordance with a similar provision in the Indian Income-tax Act, 1922.

22. *Clause 18.*—The amendment proposed in sub-clause (3) seeks to clarify that the executor or legal representative of a deceased person is also obliged to file the voluntary return.

23. *Clause 19.*—Sub-clause (1) has been amended to bring it in line with the Indian Income-tax Act, 1922, with respect to partition of Hindu undivided families.

24. *New Clause 20.*—The Committee have inserted this new clause to provide for settlement of expenditure-tax payable in the case of rulers of former Indian States who are in receipt of privy purses, in whose cases it may ordinarily be difficult to determine the quantum of expenditure incurred out of the privy purse which is liable to a

deduction under clause 5(q). In such cases, the Central Government has been empowered to settle their tax liability appropriately.

25. *Clause 21 (Original clause 20).*—(1) *Sub-clause (1).*—The Committee feel that there should be provision for an appeal to the Appellate Assistant Commissioner against the levy of penalty for non-payment of expenditure-tax within the time specified.

A new item (f) in this sub-clause has accordingly been inserted.

(2) *Sub-clause (4).*—The Committee feel that at the hearing of an appeal, the appellant should be permitted to go into any fresh ground not specified in the grounds of appeal.

The sub-clause has been re-cast accordingly.

(3) *Sub-clause (5).*—The amendment is clarificatory in nature.

26. *Clause 22 (Original clause 21).*—The Committee feel that there should be provision for condonation of delay by the Appellate Tribunals in cases of appeals presented out of time, if there is reasonable cause for the delay.

A new sub-clause (3) has been inserted accordingly.

27. *Clause 23 (Original clause 22).*—The Committee feel that following the pattern of the Indian Income-tax Act, the Commissioner should be empowered to revise the order of the subordinate expenditure-tax authority, even if such a revision is in favour of the assessee.

The clause has been re-cast accordingly.

28. *Clause 25 (Original clause 24).*—The amendment provides that the Commissioner of Expenditure-tax may also apply for a reference to a High Court.

29. *Clause 30 (Original clause 29).*—It has been clarified that the penalty levied under the Expenditure-tax Act also may be recovered in the same manner as under the Indian Income-tax Act.

30. *Clause 32 (Original clause 31).*—The Committee feel that specific punishment under the Expenditure-tax Act in cases where a person who is bound to furnish information on demand under Section 34 fails to do so, should be provided for.

A new item (c) in sub-clause (1) has accordingly been inserted.

31. *Clause 34 (Original clause 33).*—The Committee consider that any communication between a lawyer and his client should not be required to be disclosed.

A proviso has accordingly been added to this clause.

32. *Clause 39 (Original clause 38).*—The words “save as otherwise provided in this Act” have been omitted, being unnecessary.

33. *Clause 40 (Original clause 39).*—The Committee feel that in addition to the persons or class of persons mentioned in the original clause as authorised representatives of the assessee, any other person having such qualifications as may be prescribed by rules made under this Act should also be permitted to function as an authorised representative.

The clause has been amended accordingly.

34. The Select Committee recommend that the Bill as amended be passed.

NEW DELHI;
The 25th August, 1957.

ASOKE KUMAR SEN,
Chairman,
Select Committee.

Minutes of Dissent

I

Though I had an open mind when appointed to this Select Committee, I now find myself constrained, in the light of the evidence led before the Committee, the discussions in the Committee and study of the implications of the measure, to come to the conclusion that this Bill as it emerges from the Select Committee should not be proceeded with further.

There are several factors that drive one to this conclusion. Perhaps the most pedestrian of these is the likelihood that this tax may not bring in any substantial revenue commensurate with the psychological disturbance, dislocation and harassment it is bound to cause.

This harassment is a very real factor to which I would urge that attention be directed. The Bill, as introduced, at least had the merit of restricting its application to a small number of persons who were assessed for income-tax at Rs. 60,000/- or more. Everyone, both within the category and outside, would therefore have known where they stood. In view of the change made in the proviso to Clause 3 of the Bill, this definiteness has now given way to a certain measure of obscurity. There will be quite a few people who will not know till the end of an accounting year whether or not they fall within the mischief of the Bill. It is not difficult to visualise the sense of insecurity and harassment this will cause.

The basis of computing expenditure contemplated in the Bill also aggravates the likelihood of harassment of assessees. Mr. Kaldor, from whose recommendations this concept of taxing expenditure has been adopted, has himself in his Report suggested a simple formula by which all of a man's outgoings would be taxed except those exempted categories in regard to which he was able to adduce proof. This basis has not been followed in the Bill, with the result that an assessee is likely to be called upon to provide a complete list of all items of expenditure incurred over the period of a year—an impracticable demand—and, what is even worse, to be asked to prove a negative, namely, that he did not spend more than Rs. 30,000/-.

While the inquisition into one's personal and domestic life that would result is not such as may be contemplated with equanimity

in a democracy, it is also for consideration whether the tax collection machinery, which is already failing to perform its function effectively, as evidenced by the large-scale evasion of income-tax which is believed to prevail at present, should be burdened still further with the assessment and collection of a new tax which Mr. Kaldor concedes is "administratively more difficult to handle than the present income-tax". Would not the energies that will have thus to be expended be much more fruitfully and remuneratively directed towards a more effective enforcement of the income-tax?

Mr. Kaldor had contemplated that the expenditure-tax would replace the super-tax on personal incomes on slabs above seven annas in the rupee. In his Report, he has warned against the cumulative burden of the various taxes being such as to kill enterprise and initiative. The slight reduction made in the income and super-taxes is negligible compared to what Mr. Kaldor had recommended. The whole basis of the expenditure-tax as a substitute for the present super-tax has thus been ignored.

It has been claimed that the expenditure-tax, even though the revenue it yields may not be substantial, will have the desirable social purpose of penalising and restricting extravagant expenditure and conspicuous waste. Plausibility is lent to this plea by the inflated money values which are quoted. It is necessary therefore to consider what is the real purchasing power of Rs. 30,000/- which is the basic annual allowance, in terms of pre-war values. On the basis of such statistical evidence as is available, I believe that the figure would not be very far from Rs. 500 per month. Can it, with any seriousness, be argued that a man who spent Rs. 500 in 1939 on himself and his family could be accused of extravagant expenditure and be sought to be penalised for it? Even Mahatma Gandhi, with his very strict code of austerity, had placed the legitimate maximum income of an individual at Rs. 500.

Last but not least, what is wrong with the Bill is its philosophy. The concept of preventing people from utilising as they think best the fruits of their labours and enterprise and of thus enforcing savings is in my view a luxury that an undeveloped country simply cannot afford. We should on the contrary help to create more purchasing power in the hands of our people so that the market for all sorts of consumers' goods may grow and the people may enjoy fuller employment and a more comfortable life. If, as is often argued by leaders of our Government, the prime need of this country is increased effort and production, then—human nature and psychology being what they are—the freedom of the citizen

to spend or not to spend as he likes whatever he may have earned must remain unfettered. To deny him this freedom is to strike a blow at that incentive to increase efficiency, productivity and harder work which is at present most needed. I for one believe that for a country placed as ours is a more fruitful philosophy than that which underlies the Bill would be one which would encourage people to work harder, earn more and thus be able to save and spent more.

NEW DELHI;

M. R. MASANI.

The 25th August, 1957.

II

A tax on Expenditure can be thought of either as an additional source of revenue, or as an alternative basis of personal taxation instead of an income-tax. It could also be an anti-inflationary measure in certain circumstances. As adumbrated in the present Bill, this tax is supposed to act as a deterrent to "excessive personal expenditure" and provide an incentive for productive investment; in this measure it is not proposed to replace the income-tax by an expenditure-tax. The Bill seeks to prevent expenditures of specific kinds and above specific levels. By introducing this measure, the Finance Minister hopes to increase the savings potential of the community, so that it might be available for productive investment.

The Bill as such will not achieve its objective of curtailing consumption and increasing productive investment. In the very nature of things the tax cannot be broad based enough to check increases in expenditure of large masses of people as development proceeds. Indeed it is this type of expenditure which creates inflationary pressures in our economy. The sharp rises in prices which we have witnessed during the past few years are mainly attributable to increases in demand for food and clothing. The obvious remedy for such a state of affairs is not to seek to promote the savings of some 8000 persons who in any case, would be automatically saving a considerable portion of their incomes. No one can seriously maintain that with increases in developmental expenditure the consumption of these people will increase. In its present form, and in the present circumstances the Expenditure-tax serves no purpose and will be the parent of harassment.

I regret that notwithstanding the conscientious endeavours of my colleagues in the Select Committee to improve this measure by providing for allowable expenditure in respect of health and education, I have to dissent from them on the following issue.

(1) provisions relating to assessment (2) the categorisation of dependants as embodied in the Bill (3) allowable expenditures in respect of health and education incurred by the assessee or dependant.

Legalised harassment

One has only to examine clauses 13 to 17 to realise the onerous obligations that have to be fulfilled by an assessee—obligations which if not fulfilled to the satisfaction of the Expenditure-tax Officer would lead to his incurring penalties. The procedure for assessment involves filing of a detailed return by the assessee showing his expenditure under various heads. Indeed it was this dominant consideration which led Lord Keynes and Professor Pigou to reject a spendings tax, in spite of the theoretical merits of keeping expenditure rather than income as the basis of personal taxation. Perhaps the greatest merit of the Kaldor's proposals is not so much his recapitulation of the theoretical virtues of this tax as of his devising a simple formula of assessment which precluded delving into the privacy of an individual's expenditure. However, Mr. Kaldor's formula did not find favour with my colleagues who were in search of an evasion-proof procedure. It is curious that if we cannot have in the peculiar circumstances of our country an evasion-proof formula of assessment we should plump in favour of a procedure bordering on inquisition—a procedure which is like to make inroads into the social structure based on the family. Undoubtedly the tax at present affects few persons. But those who propound this argument, overlook an elementary fact. A tax does not end from where it starts. With experience the tax net is bound to be thrown wider and what is more if this tax is to be effective it will have to be broad based. It is in this context that the procedure for assessment which is invariably sticky, with subsequent changes only in rates or exemption limits, has to be viewed.

Categorisation of Dependants

The Select Committee acting on the motion of the Finance Minister have accepted an artificial definition of dependants which is valid only in a western society. Unlike in the west it ought to be clear that in our society a wife, sons and daughters are not the only dependants. In a society, where social security is almost unknown, and where traditional and family ties act as an informal system of social security, it is illogical, unfair, and unwise, to take on a definition of dependants which is valid only in a highly individualistic and atomistic society. The only consequence of adopting this arbitrary definition would be to force people who

would otherwise have accepted their social obligation to wriggle out of them. Nor is this all. In any period of inflation—and we have had an inflationary situation with us for some years—polarisation takes place—a process which reduces the economic viability of the middle classes. One check to this process of polarisation in the present social arrangement is that so long as someone continues to be in the relatively upper income brackets at least the more promising relatives need not be consigned to the category of have-nots on account of lack of opportunities; their education will be looked after and if they should fall ill expenses will be incurred by the fortunately placed member of the family. But if expenditure is to be taxed in a manner which makes it prohibitive, the ineludable consequence of such taxation would be to accelerate the process of polarisation. This consideration is particularly relevant in a country where the average span of life is generally not more than 32 years and even in the upper income groups the average span of life is still very much lower than in other countries of the world. Therefore the extent of dependence would be quite considerable. Besides two things have been happening in the upper income group. Social legislation has led to the age of marriage being raised with the result that by the time children are self-supporting it is not always that the father is alive and it is rarely that the provision that he can make for them are large enough to make them wholly independent. This is partly attributable to the high rates of income taxation and partly to inflation. However, it is suggested that a liberal definition of dependants would lead to evasion. Alternatively it is pointed out that it would be administratively unworkable. The argument that it is administratively difficult to determine who dependants are, is fallacious. So long as the onus of proof is placed on the assessee and discretion left to the assessment authority there is no reason why it should be administratively difficult. The argument about evasion is also fallacious because as long as we are in a position to treat each case on its merits the extent of misuse is not likely to be large. Even assuming that this involves a loophole the balancing social considerations far outweigh the possible evasion that might take place. It is further pointed out that those who are 'truly dependent' but not covered by the present definition can yet be assisted "by a gift, donation, or settlement on trust, or otherwise" under clause 5(j). But this is a devious way for securing a legitimate social objective. In any event it is bad in principle to have an artificial definition of dependants, and then provide for relief by another clause which only by accident mitigates the hardships. The fact that the Expenditure-tax for the present affects only a few thousand assesseees is totally irrelevant. Because a pernicious principle of this

kind may be expected to extend its tentacles as more people come within the orbit of Expenditure-tax in course of time. It may also be pointed out that outstanding social scientists like Pandit Jawaharlal Nehru in various writings have stressed the importance of preserving family ties and utilising the family for promoting social progress; in fact Pandit Jawaharlal Nehru in a passage of rare insight has pointed out that the vitality of Indian life is due to the manner in which family ties have been widened and social obligations are incurred by the more prosperous members of the family.

Tax on Health and Education

I regret that the Select Committee should not have devoted enough consideration to the need for exempting necessitous expenditures which have to be incurred by the assessee either on himself or on dependants as defined in the bill. A few instances of the arbitrariness which is inevitable in levying an exaction of this nature may be cited. It would be perfectly legitimate for a person according to the bill to receive the best of medical treatment provided it is available up to a specific amount of Rs. 5000/- a year; he can also send his son or daughter abroad for being educated. But this again should not exceed a specified target of Rs. 8,000. But if he decides not being inclined to be so soft or civilised as to look after his or his dependants' welfare or so solicitous about minor matters like education of his children, he can quietly contemplate sinking his savings in gold, (under clause 5) and there need be no limit to the amount that he can invest. One would have expected in a welfare state that necessitous expenditures such as medical expenditure which are unforeseen and irregular, and the magnitude of which is not within the control of the assessee would have been allowed. What is actually spent must be permitted. There is no meaning in placing any limit on such expenditures. Besides let us remember that in the Bill we have made provision for collecting an Expenditure-tax under Section 18(1) from the legal representative of a deceased person. It does seem rather heinous that we should collect tax on any amount in excess of Rs. 5,000 incurred for medical expenses from the estate of the deceased who might have tried his best to save his life by getting the best medical aid! Nor can I appreciate the argument that evasion would occur if no limits are placed and in any event, the concern for checking evasion should not blind us legislators to the importance of the over-riding principle that expenses on health and education should not be artificially increased by levying a tax on them. This Bill would be productive of a great deal of harassment. All of us are interested in promoting the savings, both public and private, so that such savings may be available for the development of our coun-

try and the fulfilment of the Plan. But there is a way to achieve such objective, and the tax on expenditure, in its present form with its elaborate provisions of harassment is not the way to promote savings. For these reasons I urge that the bill be dropped.

A. KRISHNASWAMI.

NEW DELHI;

The 25th August, 1957.

III

In theory, there can be no justification for linking up the liability to pay a tax on expenditure with the income of an individual. Yet, in practice, such a course may be desirable with a view to avoid possible undue harassment to many people of meagre or moderate means. For, in the absence of some such provision, anybody, whatever his income, might be served with a notice for assessment under the expenditure-tax. This might undoubtedly cause undue harassment to many. While, therefore, it would be desirable to have a provision like the proviso to clause 3(1), we feel that justice would be done if the limit is reduced from Rs. 36,000 to Rs. 24,000 net income from all sources.

In regard to the basic allowance for an individual as provided for under 6(h)(i), we are of opinion that it should be Rs. 24,000 for an individual with a further additional allowance of Rs. 3,000 for every additional dependant, provided, however, that the basic allowance as a whole should not exceed Rs. 30,000 in any case.

In suggesting a reduction in these limits, we have been actuated by the consideration that, while they should be reasonable, they should also seek to curtail conspicuous expenditure.

NEW DELHI;

The 26th August, 1957.

BIMAL COMAR GHOSE,

R. K. KHADILKAR.

IV

After having kept a completely open mind on the question of the Expenditure-tax Bill, and after considering the important evidence given by the representatives of reputed institutions before the Select Committee, and also after having sat through the entire stages of the Select Committee on the Expenditure-tax Bill, and having taken into consideration the Bill as it has emerged from the Select Committee, I am of the opinion that the Expenditure-tax Bill should not be added to the Statute Book of India.

Harassment factor to be considered

With various exemptions and allowances, the object of the Bill is more or less nullified and to proceed with a novel measure like this is purely to increase the harassment to the citizens without any corresponding gain to the country.

India is passing through a very difficult stage both in its economic and domestic fields and it is important that all new measures brought in by the Government should go to gain the goodwill of the citizens rather than create apathy in their minds towards the Government. It is obvious that the Expenditure-tax actually tries to control the expenditure of an individual, which control and interference have not been taken upon by any other democratic country in the World. This, in fact, is a control exercised by the Government in the extremely personal and private field of an individual's life. The reason as explained by the Hon'ble Finance Minister that this Tax is levied to promote savings, is, in my opinion, not enough justification to arm the Government with such wide powers which will control the day to day life of the citizen. If this novel experiment goes through what is there to stop any further taxes even more novel and experimental than this one being introduced, at a later stage which would go to further curb the liberties of a citizen?

Any tax measure which causes harassment beyond a point must result nearly always in ultimately an even honest citizen taking recourse to dishonest measures to evade the tax. With the standard of morality in India as it is today and corruption on the increase it is wondered whether a step like this tax will not make matters worse. It is essential that if we plan to build up our country on the foundations of a democracy, then its basis should necessarily be based on a happy and contented society. Any taxes or measures which harass the citizens beyond a limit will result in unhappiness amongst the people and at the same time take away all the feelings of enthusiasm in the progress of one's country, which we need so much today. If the full support of the people at large is to be expected for the implementation of the Five Year Plans and at the same time if austerity is expected from people voluntarily, then it is of paramount importance that citizens are allowed to lead their lives with the least possible amount of Government control and harassment, which go to make their day to day living unpleasant.

Again, this Bill now necessitates an individual to keep complete accounts of his paltry expenditure even of one or two rupees to justify and prove to the Expenditure-tax Officer that his expenditure is of such an amount. To say the least it is almost impossible for a person to do so and would create unnecessary worry and extra work and headaches for an individual and his family.

The inspiration for the expenditure-tax has been drawn from Prof. Kaldor in the adoption of the present Bill, but it has overlooked the recommendations made by him as embodied in his Report. The pre-requisites of income-tax incidence not exceeding 45%, as against the present 77% and 84% on the earned and unearned income respectively, has not been incorporated. Says Prof. Kaldor, "It would not be practicable to impose an expenditure tax on top of the present taxes on income, since this would make taxation altogether too severe."

Prof. Kaldor has not proposed any limit of Rs. 36,000 of income as criterion as incorporated in the Bill today. He has also recommended for the funeral and birth expenses etc., being exempted. This is not the case here.

Discrimination based on income-level with regard to expenditure from one's capital

The Bill as it stands today discriminates with regard to expenditure being incurred from one's capital between individuals whose income exceeds Rs. 36,000 and those whose does not. Those persons whose net taxable income does not exceed Rs. 36,000 are permitted to make any amount of expenditure from their capital or otherwise without being subject to expenditure-tax, whereas in the case of those people whose net taxable income exceeds Rs. 36,000 will pay expenditure-tax on their expenditure even though it may be from capital. This discrimination should be corrected. It will be obvious that any expenditure incurred on marriages, medical expenses, obsequies, child birth, purchase of motor cars etc., by an assessee, whose income is above Rs. 36,000 will put him in a less happier position than an individual whose income is less than Rs. 36,000 and who has to incur the same expenditure. It is suggested that expenditure from one's capital incurred by the assessee should under all circumstances be exempted from Expenditure-tax, since it is incurred only in cases of absolute necessity.

Expenditure-tax another form of wealth-tax

In a number of cases the Wealth-tax and Income-tax will exceed the income of an individual and as such a person's expenditure in any case will have to be met from his wealth and, therefore, the expenditure-tax will be a subsequent tax on wealth. It is suggested that in case expenditure-tax is to be levied in India, the rates of income-tax be reduced to 45% as suggested by Prof. Kaldor and that the adjustment in the tax structure should be so effected that all

taxes including Income-tax, Wealth-tax and Expenditure-tax put together do not exceed 100% of one's income.

Discrimination between the married and the unmarried

Another glaring misconception in this Bill is with regard to the question of discrimination between a married couple with children and an unmarried person. Both are eligible for a basic allowance of Rs. 30,000 without regard being paid to the fact that in the former case the spending units are multiple whereas in the latter case they are single. Married and unmarried people, therefore should not be put in the same category. Even Prof. Kaldor says, "...Unlike the income-tax the rates of taxation in the case of expenditure-tax ought to vary with the scale of expenditure per head rather than the total expenditure of the whole family unit. This means the adoption of the so-called quotient system, which is already applied in France for income-tax purposes according to which the income (or expenditure) of all members of the family is first aggregated and then divided into a number of parts, depending on the number of persons in each family, and the tax is charged separately on each part."

Pre-war value of Basic Allowance

Further, to fix the amount at Rs. 30,000 as basic allowance is arbitrary, since the purchasing power of today's Rs. 30,000 is not taken into consideration. This amount is almost equal to Rs. 500 per month of pre-war level. Nobody can say that spending Rs. 500 of pre-war days value is ostentatious. Since people in India are still allowed to possess wealth subject to taxes, it is not fair to assume that any reasonable standard of living maintained by them as ostentatious.

Medical expenses to be exempted

It is surprising how the most important thing like expenditure on medical aid could have been given so little consideration. The total allowance of Rs. 5,000 carriable for a period of two years has only been permitted. In a Welfare State like India where the Government is not always able to provide medical aid to the citizens, of the highest quality, it should also not come in the way of the citizens in looking after their own welfare. When a person himself or his dependant members are seriously ill there is no doubt that in most cases the person would be prepared to spend his entire income or his entire fortune to see that every attempt is made to get the best medical attention to save the life in serious cases. For the Government to come in the way of an individual in protecting his health or the life of himself or his dependants, to say the least, is highly undesirable and undemocratic. On numerous occasions persons may

have to go out of India for medical aid since such treatment is frequently not available here and the paltry sum of Rs. 5,000 allowed could not in those cases possibly be considered adequate, particularly for those people who fall ill after the passing of the Act to whom even the Rs. 20,000 special exemption limit will not be permissible. It is, therefore, necessary that all *bonafide* expenses on medical aid incurred by the assessee with regard to himself or his dependants should be completely exempt from the purview of the Expenditure-tax

Expenditure on education to be exempted

No suitable provision has been made for the education of the assessee or his dependants within India and only a paltry sum of Rs. 8,000 has been permitted with regard to education abroad. It is necessary that certain exemption should also be made for those people who wish to give their children technical or other specialised education in India to be able to make them more useful to society and the nation. Education of all types should be encouraged and not discouraged. Educated men are an asset to the country. Expenditure on education cannot be called ostentatious

Limiting marriage expenses undesirable

India is a country with great traditions and deep religious sentiments. For a Government to interfere in the marriage of an individual or a family member by controlling the expenditure is again an interference in a person's personal domain. To fix an arbitrary figure of Rs. 5,000 for a wedding for purposes of exemption is inequitable, as this figure will vary from individual to individual according to the status and social standing of the person and, therefore, to bind him down is not fair. It is doubted whether this control will in any way eliminate certain social evils associated with these functions which the Government may have in view.

Rates of tax too high

The rate of the Expenditure-tax is staggering. Considering that India is the only country where this very extremely novel form of taxation is being experimented with, it is suggested that the highest slab should not exceed 50 per cent.

Expenditure-tax should come into force in 1959

Further, Expenditure-tax should come into force from April, 1959 as the tax will be based on the previous year's expenditure and in

this case almost half a year has already gone by and assessee do not know how the Bill will finally emerge from Parliament. Therefore, it will not be possible for them to regulate their expenditure completely.

Reopening of assessments

As regards the opening of cases, it is necessary in order to avoid harassment that the time for reopening of Expenditure-tax cases should be limited to three years and two years for cases falling under Clause 16(a) & 16(b) respectively as the case may be as otherwise if the honest citizen's cases are opened after many years for any reason then he will have to face several years of old cases being opened up on three fronts, i.e., in income-tax, wealth-tax and expenditure-tax. Hitherto this problem has only been in regard to Income-tax. The harassment is no tripled.

Furnishing and Household necessities to be exempted

Purchase of furniture and household utensils should be exempted as these have been exempted from wealth-tax. Any person who invests in a house which expenditure is free from both the expenditure and wealth-taxes must necessarily furnish his house, which in itself will come to a high cost and even if taken at the rate of 1|5th per year the expenditure-tax charged will take the amount into fairly high tax slabs.

Exemption for aeroplanes

The Government of India has all along been striving to promote civil aviation and private flying in India and has even gone to the extent of giving numerous concessions to private fliers in the form of subsidies to flying clubs and lowering the import duty of aeroplanes to something nominal, i.e., in the region of only 3 per cent. It behoves, therefore, that these concessions extended to private fliers who are ultimately the backbone and reserve of the Air Force of this country must likewise be given a special concession with regard to the Expenditure-tax. Since the import of planes in spite of low duty is prohibitive and since we do not make any aeroplanes in our country worth the name, even though the Expenditure-tax may be collected on 1|5th of the amount every year it would make the price virtually beyond the scope of any private flier to afford in India. To say that private flying is confined only to the rich people would not be correct as aeroplanes are owned by various aviation enthusiasts throughout India in all walks of life. In a country where distances are large, private flying is to be encouraged as in America where even farmers own their own aeroplanes.

Conclusion

It is doubtful whether the Expenditure tax will be able to come up to the expectations of the Hon'ble Finance Minister in increasing the savings of the citizens of India at large. I rather think that the harassment caused to the citizens will far outweigh the benefits of this Tax, not to speak of the possible demoralisation of the honest citizens who, due to the harassment, may be compelled to resort to dubious means of evasion, which, to say the least, is not at all in the interests of the country.

NEW DELHI;

KARNI SINGH.

The 26th August, 1957.

V

We regret to record that we are not able to agree with the majority view of the Select Committee on many provisions which are of vital importance. We are of the opinion that the original provisions of the Bill itself as referred to the Select Committee were defective and inadequate in many respects but the changes the Select Committee has made, has made the position worse. The provisions as recommended by the Select Committee, no doubt, have frustrated even the truncated good effects the original Bill had, thus transforming the taxation provisions of the Bill into illusory, nominal, and impotent.

We are firmly of the opinion that the Expenditure Tax Bill should at least serve to narrow down to even a negligible extent, the unconscionable disparity that exists today between the burden of taxation of the different strata of our people. It should also serve as an effective means of distributing the burden of new taxation, on all sections of the people. But, while the overall effect of the new excise duties, increase in railway fare and other indirect taxes have hit the common man very hard, the Expenditure Tax Bill, as reported by the Select Committee, will not even graze the outer borders of the cost of living of upper class. We are much pained to record, that the majority report of the Select Committee, would allow even the most fabulous expenses on luxuries of few of the privileged classes from the legitimate liability to share the burden of building up the nation and thus indirectly to load the heavy burden of the increased taxes, on the shoulders of the common man, whose condition is worsening daily due to other factors like increased prices etc. Therefore, while disagreeing with the very basis of the taxation proposals and exemptions recommended by the report, we point out below our specific objections to and recommendations to the various clauses of the Bill.

Clause 3(1): We are opposed to the principle of tagging down the liability to pay expenditure tax to either the net or gross annual income of an assessee, and we recommend the liability to pay expenditure tax should be based upon the actual expenditure incurred by an assessee. If the basis of an annual income is accepted, for fixing the liability to pay the expenditure tax, we will be allowing those who incur fabulous expenditure from concealed and unaccountable reserves. Further if we agree to this proposal, we would also be guilty of not only giving statutory blessing to the numerous tax evaders in the country, but also we would be encouraging further large scale evasions of taxes and concealing of income and resources. Therefore, we strongly recommend to the House, that the basis for payment of expenditure tax should be the expenses incurred by the assessee in the year, without any condition or qualification. We may record that we are not unmindful of the possible cases of harassment to few, but for that, we believe, the remedy is a reformation and reorganisation of the collecting machinery and not favourable limitations and exemptions. The remedy should never be worse than the disease. The basis of taxation we recommend should be on annual expenditure of Rs. 12,000/- per assessee.

Clause 4(1): We fail to understand, the limit of Rs. 5,000/- fixed as subject to the tax, in cases of expenses incurred on behalf of the assessee. The limit laid down should go, as there is neither reason nor any principle which could support the limitations, except that it will open up another avenue of large scale evasion of the tax.

Clause 5: The long list of exemptions, recommended by the majority of our colleagues under clause 5, will in effect negative the very purpose of the whole Bill. We consider, such a fabulously liberal and un-understandably charitable exemption will enable a large number of the rich to spend as much as they like and live as luxuriously as possible, without having any liability to pay the tax. We find the "exemptions" accepted as the normal rule, and the rule made the exemption.

We specifically take exception to the total exemptions under 5(a), 5(b), 5(e), 5(g), 5(n) and we recommend that the expenses above referred except that of purchase of products of cottage industries under 5(g) should not be exempted. Further we feel and also recommend the exemption granted under 5(b) for precious stones and jewellery should be removed. Further the exemption granted under 5(e) could include items of lavish expending and luxury like air-conditioning and other fashionable construction and therefore, the exemption under 5(e) should be confined to acquisition of immovable property alone, as 5(h) could include the expenses in speculation on the stock exchange, which are not in any

way helpful to the industry or the community, we recommend deletion of the clause. The exemptions granted under 5(q) in respect of privy purses, is quite un-understandable in the present context. To exempt the various items listed under clause 5 (q) is to give an unreasonable and unwarranted privilege to the princely class. As we find no reason as to why the princes and their privy purses should not be treated as the earned money of any other citizen. We recommend the total deletion of clause 5(q) (i), (ii), (iii), and (v).

Clause 6: We consider it to be equitable and just if an exemption of Rs. 2,000 is given. Expenses beyond such a limit, should be taxable, as capacity to expend so much itself is a rare and exclusive privilege of the few, in this country, where bare medical facilities are denied to the overwhelming majority of population.

We feel the basic allowance granted under Clause (6) (h) is extravagant and therefore we recommend that the basic allowance in the case of the individual should be Rs. 12,000/- and in the case of Hindu undivided family Rs. 24,000/-.

Clause 6(2): As recommended by the majority of our colleagues is not acceptable to us, as we find that neither equity nor justice demand such a favoured treatment for those, who are accustomed to spending more. As the Bill, makes it liable to pay a small percentage as tax on any expenditure and as it does not propose to prohibit expenditure as a whole, we recommend the deletion of the whole of clause 6(2).

We have made the above recommendations, with the firm belief that we should not associate ourselves in any manner whatever in undermining the disparity between the incidence of taxation on different strata of society. We were also motivated by the fact, we are duty bound to this House, and to our people, to see that the burden of necessary taxation for the building up of our country should be shared equitably if not equally by the different classes of our people, and the burden of taxes should at least gradually be brought up or down so that it bears some proportion to the capacity to pay at least.

With this aspect in view, and mindful of the serious repercussions the watering down of this tax proposal to any extent will have on the morale of our common people who are called up to bear an unbearable burden of indirect taxation, we appeal to this House to effect the above suggested changes in the Bill before the same is passed by the House.

NEW DELHI,
The 26th August, 1957.

T. C. N. MENON.
PRABHAT KAR.

Bill No. 15-A of 1957.

THE EXPENDITURE-TAX BILL, 1957

ARRANGEMENT OF CLAUSES

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THE SCHEDULE.

Bill No. 15-A of 1957.**THE EXPENDITURE-TAX BILL, 1957**

(AS AMENDED BY THE SELECT COMMITTEE)

(Words underlined or side-lined indicate the amendments suggested by the Select Committee, asterisks indicate omissions.)

A

BILL

to provide for the levy of a tax on expenditure.

BE it enacted by Parliament in the Eighth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

- 5 1. (1) This Act may be called the Expenditure-tax Act, 1957.
 (2) It extends to the whole of India except the State of Jammu and Kashmir.

Short title,
extent and
commence-
ment.

(3) It shall come into force on the 1st day of April, 1958.

2. In this Act, unless the context otherwise requires,—

Definitions.

- 10 (a) "Appellate Assistant Commissioner" means a person empowered to exercise the functions of an Appellate Assistant Commissioner of Expenditure-tax under section 8;

 (b) "Appellate Tribunal" means the Appellate Tribunal appointed under section 5A of the Income-tax Act;

- 15 (c) "assessee" means an individual or a Hindu undivided family by whom expenditure-tax or any other sum of money is payable under this Act, and includes every individual or Hindu undivided family against whom any proceeding under this Act has been taken for the assessment of his expenditure;

(d) "assessment year" means the year for which tax is chargeable under section 3;

4 of 1924. (e) "Board" means the Central Board of Revenue constituted under the Central Board of Revenue Act, 1924;

(f) "Commissioner" means a person empowered to exercise the functions of a Commissioner of Expenditure-tax under section 9;

(g) "dependant" means—

(i) where the assessee is an individual, his or her spouse or child wholly or mainly dependant on the assessee for support and maintenance;

(ii) where the assessee is a Hindu undivided family—

(a) every coparcener other than the *karta*; and

(b) any other member of the family who under any law or order or decree of a court, is entitled to maintenance from the joint family property;

(h) "expenditure" means *** any sum in money or money's worth, spent or disbursed or for the spending or disbursing of which a liability has been incurred by an assessee, and includes any amount which under the provisions of this Act is required to be included in the taxable expenditure;

(i) "Expenditure-tax Officer" means the Income-tax Officer authorised to perform the functions of an Expenditure-tax Officer under section 7;

11 of 1922. (j) "Income-tax Act" means the Indian Income-tax Act, 1922;

(k) "Income-tax Officer" means a person appointed to be an Income-tax Officer under the Income-tax Act;

(l) "Inspecting Assistant Commissioner of Expenditure-tax" means a person empowered to exercise the functions of an Inspecting Assistant Commissioner of Expenditure-tax under section 10;

(m) "prescribed" means prescribed by rules made under this Act;

(n) "previous year" in relation to any assessment year, means the previous year as defined in clause (11) of section 2 of the Income-tax Act if an assessment were to be made under the said Act for that year;

Provided that where in the case of an assessee there are different previous years under the Income-tax Act for different sources of income, the previous year shall be that previous year which expired last. * * * * *

- 5 (o) "taxable expenditure" means the total expenditure of an assessee liable to tax under this Act.

CHAPTER II

CHARGE OF EXPENDITURE-TAX AND EXPENDITURE SUBJECT TO SUCH CHARGE

- 10 3. (1) Subject to the other provisions contained in this Act, there shall be charged for every financial year commencing on and from the first day of April, 1958, a tax (hereinafter referred to as expenditure-tax) at the rate or rates specified in the Schedule in respect of the expenditure incurred by any individual or Hindu undivided family in the previous year: Charge of expenditure-tax.

- 15 Provided that no expenditure-tax shall be payable by an assessee for any assessment year if his * * * * * income * * * from all sources during the relevant previous year * * * * * as reduced by the amount of taxes to which such income may be liable under any other law for the time being in force does not exceed rupees thirty-six thousand

- 20 (2) For the removal of doubts, it is hereby declared that nothing contained in this Act shall require the inclusion in the taxable expenditure of assessee for any year of expenditure for the spending or disbursing of which a liability has already been incurred and which has been included in the taxable expenditure for any earlier year.

4. Unless otherwise provided in section 5, the following amounts shall be included in computing the expenditure of an assessee liable to tax under this Act, namely:—

Amount to be included in taxable expenditure

- 30 (i) any expenditure incurred, whether directly or indirectly by any person other than the assessee in respect of any obligation or personal requirement of the assessee or any of his dependants which, but for the expenditure having been incurred by that other person, would have been incurred by the assessee, to the extent to which the amount of all such expenditure in the aggregate exceeds Rs. 5,000 in any year;

- 35 (ii) any expenditure incurred by any dependant of the assessee for the benefit of the assessee or of any of his dependants out of any gift, donation or settlement on trust or out of any other source made or created by the assessee, whether directly or indirectly.

Explanation—For the removal of doubts it is hereby declared that nothing contained in this section shall be deemed to require the inclusion in the expenditure of the assessee of any expenditure incurred by any other person for or on behalf of the assessee by way of customary hospitality or which is of a trivial or inconsequential nature. 5

Exemption
from ex-
penditure-tax
in certain
cases.

5. No expenditure-tax shall be payable under this Act in respect of any such expenditure as is referred to in the following clauses, and such expenditure shall not be included in the taxable expenditure of an assessee:—

(a) any expenditure, whether in the nature of revenue expenditure or capital expenditure, incurred by the assessee wholly and exclusively for the purpose of the business, profession, vocation or occupation carried on by him or for the purpose of earning income from any other source; 10

(b) any expenditure incurred by the assessee, or on his behalf by his employer, wholly and necessarily in connection with the discharge of duties arising out of the assessee's employment; 15

(c) any expenditure incurred by or on behalf of the assessee wholly and necessarily in connection with the discharge of any duties assigned to him by the Government; 20

(d) any expenditure incurred on behalf of the assessee by way of any such passage concessions as are referred to in clause (via) of sub-section (3) of section 4 of the Income-tax Act; 25

(e) any expenditure incurred by the assessee in connection with the acquisition of any immovable property or in the construction, repair, maintenance or improvement of any immovable property belonging to him; 30

(f) any expenditure incurred by the assessee by way of investment in ***** deposits, loans, shares and securities, or in bullion, precious stones or jewellery; 35

(g) subject to such rules as the Central Government may make in this behalf any expenditure incurred by the assessee in the purchase of products of any cottage industry in India, books or any work of art; 35

(h) any expenditure incurred by the assessee by way of contribution as capital to a firm or other association of persons in consideration of a share in the profits of the firm or association;

(i) any expenditure incurred by the assessee by way of repayment of loan or other borrowing, or by way of payment of interest thereon, not being interest on any loan or other borrowing utilised for incurring expenditure liable to tax under this Act;

(j) any expenditure incurred by the assessee by way of, or in respect of, any gift, donation or settlement on trust or otherwise for the benefit of any other person;

(k) any expenditure incurred by the assessee for paying premiums in respect of any policy of insurance—

(i) on the life of the assessee or any of his dependants; or

(ii) for the education or marriage of any of his dependants; or

(iii) for insuring the health of the assessee or covering any accident which may befall him or any disability to which he may become subject; or

(iv) covering any property (other than aircraft, motor vehicles or other transport vehicles) against loss or damage due to fire or theft;

(l) any expenditure incurred by the assessee in the purchase or maintenance of livestock;

(m) any expenditure incurred by the assessee for any public purpose of a charitable or religious nature in India;

(n) any expenditure incurred by the assessee out of any allowance in the nature of an entertainment allowance referred to in clause (ii) of sub-section (2) of section 7 of the Income-tax Act in respect of which income-tax is not payable;

(o) any expenditure incurred outside India—

(i) from any source, by an assessee who is not a citizen of India and is not resident in India; or

(ii) from any income or capital accrued or realised outside India by an assessee who is not a citizen of India but is resident in India or, being a citizen of India or a Hindu undivided family, is not resident or not ordinarily resident in India;

Explanation.—For the purpose of this clause, an individual or a Hindu undivided family shall be deemed to be not resident or not ordinarily resident in India during any year, if in respect of the corresponding assessment year he or it, as the case may be, is not resident or not ordinarily resident in India within the meaning of the Income-tax Act;

(p) any expenditure incurred by way of contribution to a provident, thrift or superannuation fund;

(q) any expenditure, not being personal expenditure, incurred by the assessee out of the sums, if any, guaranteed or assured by the Central Government as his privy purse for 5 meeting any expenses in respect of—

(i) the maintenance of any member of his retinue and the payment of salaries, allowances and pensions to members of his staff or to persons who have retired from his service; 10

(ii) the maintenance of any one building declared by the Central Government as his official residence under paragraph 13 of the Merged States (Taxation Concessions) Order, 1949, or paragraph 15 of the Part B States (Taxation Concessions) Order, 1950; 15

(iii) the maintenance of any conveyances or animals for official purposes;

(iv) the maintenance of any relatives dependant on him for maintenance;

(v) the performance of any official ceremonies; 20

which expenses, having regard to the status of the assessee or to the practice of the family to which the assessee belongs, have to be or are being incurred by him and are, in the opinion of the Expenditure-tax Officer, reasonable;

Provided that the Expenditure-tax Officer shall not fix 25 the amount of such expenditure without the previous approval of the Commissioner.

(r) any expenditure incurred by the assessee or any of his dependants, and where the assessee is a Hindu undivided family by any member of the family, in connection with any election 30 to any legislative, municipal or other public authority in India for which the assessee, dependant or member, as the case may be, is a candidate, to the extent to which such expenditure is not in excess of the limits, if any, fixed under any law for the time being in force relating to such elections. 35

Deductions
to be made
in computing
the taxable
expenditure.

6. (1) The taxable expenditure of an assessee for any year shall be computed after making the following deductions and allowances, namely:—

(a) any taxes, including the expenditure-tax payable under this Act, duties, cesses, rates or fees paid to the Government or a 40 local authority, but not including—

(i) taxes or fees in respect of any conveyance or other movable asset intended for the personal use of the assessee or any of his dependants;

5 (ii) customs duties on, or taxes on the purchase of, articles imported or purchased for the personal use of the assessee or any of his dependants;

* * * * *

10 (b) any expenditure lawfully incurred by the assessee in respect of any civil or criminal proceedings to which he is a party;

(c) any expenditure incurred by the assessee—

(i) if an individual, in respect of his own marriage or the marriage of any of his dependants, and

15 (ii) if a Hindu undivided family, in respect of the marriage of the *karta* or any other member of the family,

subject to a maximum of Rs. 5,000 in each case;

20 (d) four-fifths of any expenditure incurred by way of capital expenditure on the purchase of * * * * * furniture and other household goods, motor-cars and other conveyances or any other articles for the personal use of the assessee or any of his dependants;

25 Provided that where a deduction as aforesaid is made, one-fifth of the said capital expenditure shall be deemed to be incurred by the assessee in each of the four years succeeding the previous year in which the expenditure was * * * * * incurred and no deduction shall be made under this clause in the assessment for any succeeding year in respect of expenditure so deemed to have been incurred in any earlier year;

30 (e) any expenditure incurred by the assessee on the maintenance of his parents subject to a maximum of Rs. 4,000;

(f) any expenditure incurred by the assessee—

(i) if an individual, in respect of his own medical treatment or the medical treatment of any of his dependants or parents, and

35 (ii) if a Hindu undivided family, in respect of the medical treatment of the *karta* or any other member of the family,

subject to a maximum of Rs. 5,000.

Provided that the assessee may carry forward to the next year and the year immediately following any portion of the said sum of Rs. 5,000/- unexpected during any year;

Provided further that in the case of an assessee who immediately before the commencement of this Act has been incurring a higher expenditure on the medical treatment of himself or any of his dependants or his parents, the Expenditure-tax Officer may, in any of the five years commencing from the 1st day of April, 1958, increase the allowance specified in this clause to such extent as he may think reasonable for that year, but so as not to exceed Rs. 20,000;

(g) any expenditure incurred by the assessee in respect of the education of any one of his dependants and where the assessee is a Hindu undivided family, of any one other member of the family, in any country outside India, subject to a maximum of Rs. 8,000 per year;

(h) a basic allowance—

(i) where the assessee is an individual, of Rs. 30,000; and

(ii) where the assessee is a Hindu undivided family, of Rs. 30,000, in respect of the *karta* and his wife and children, and a further allowance of Rs. 3,000 for every additional coparcener, provided that the basic allowance for the Hindu undivided family as a whole shall not exceed Rs. 60,000 in any case;

(i) any expenditure incurred by the assessee in any country outside India in any case where he is not a citizen of India but is resident in India, to the extent to which such expenditure is not admissible under clause (c) or clause (e) or clause (f) or clause (g), subject to a maximum of Rs. 10,000.

(2) If the assessee claims on or before making a return for the assessment year commencing on the 1st day of April, 1958, that instead of the deductions permissible under clauses (b), (c), (d), (e), (f), (g), (h) and (i) of sub-section (1), the deductions and allowances permissible in his case shall be determined having regard to his actual expenditure in the last three previous years immediately preceding the previous year relevant to the assessment year commencing on the 1st day of April, 1958, then, notwithstanding anything contained in sub-section (1), instead of the deductions and allowances permissible under the clauses aforesaid, there shall be allowed—

(a) a sum equal to 75 per cent. of the average annual expenditure of the assessee for the said three years computed

after taking into account the exemptions mentioned in section 5 and the deduction permissible under clause (a) of sub-section (1) of this section; or

(b) Rs. 75,000;

5 whichever is less.

(3) The limit of Rs. 75,000 referred to in sub-section (2) shall be progressively reduced by a sum of Rs. 5,000 every year commencing from the assessment year ending on the 31st day of March, 1960:

10 Provided that this sub-section shall cease to apply to an assessee in relation to and from the year in which the progressive reduction, if allowed, would have the effect of bringing the limit so reduced to a figure below the aggregate amount of the allowances and deductions permissible under clauses (b) to (i) inclusive of sub-section
15 (1).

(4) If the assessee proves in any year that in respect of any sum out of which any expenditure incurred is chargeable to tax under this Act he has paid in any foreign country any tax under any law for the time being in force in that country relating to
20 taxes on income, wealth or expenditure, he shall be entitled to a deduction from the expenditure chargeable to tax under this Act of that portion of the tax paid in the foreign country as is attributable to the amount of such expenditure.

CHAPTER III

25

EXPENDITURE-TAX AUTHORITIES

7. Every Income-tax Officer having jurisdiction or exercising powers as such under the Income-tax Act in respect of any individual or Hindu undivided family shall perform the functions of an Expenditure-tax Officer under this Act in respect of such individual or
30 Hindu undivided family.

8. The Board may empower as many persons as it thinks fit to exercise under this Act the functions of an Appellate Assistant Commissioner of Expenditure-tax, and on being so empowered the Appellate Assistant Commissioners of Expenditure-tax shall perform their
35 functions in respect of such areas or such persons or such classes of persons as the Board may direct, and where such directions have assigned to two or more Appellate Assistant Commissioners the same area or the same persons or the same classes of persons, they shall perform their functions in accordance with such orders as the
40 Board may make for the distribution and allocation of the work to be performed.

Expenditure-tax Officer.

Appellate Assistant Commissioners of Expenditure-tax.

Commissioners of Expenditure-tax.

9. The Board may empower as many persons as it thinks fit to exercise under this Act the functions of a Commissioner of Expenditure-tax, and on being so empowered the Commissioners of Expenditure-tax shall perform their functions in respect of such areas or such persons or such classes of persons as the Board may direct, 5 and where such directions have assigned to two or more Commissioners of Expenditure-tax the same area or the same persons or the same classes of persons, they shall have concurrent jurisdiction subject to such orders, if any, as the Board may make for the distribution and allocation of the work to be performed. 10

Inspecting Assistant Commissioners of Expenditure-tax.

10. The Commissioner of Expenditure-tax may empower as many persons as he thinks fit to exercise under this Act the functions of an Inspecting Assistant Commissioner of Expenditure-tax and on being so empowered the Inspecting Assistant Commissioners of Expenditure-tax shall perform their functions in respect of such areas 15 or such persons or such classes of persons as the Commissioner of Expenditure-tax may direct, and where such directions have assigned to two or more Inspecting Assistant Commissioners of Expenditure-tax the same area or the same persons or the same classes of persons they shall perform their functions in accordance 20 with such orders as the Commissioner of Expenditure-tax may make for the distribution and allocation of the work to be performed.

Expenditure-tax Officers to be subordinate to the Commissioner of Expenditure-tax and the Inspecting Assistant Commissioner of Expenditure-tax.

11. The Expenditure-tax Officers shall be subordinate to the Commissioner of Expenditure-tax and the Inspecting Assistant Commissioner of Expenditure-tax within whose jurisdiction they perform their functions. 25

Expenditure-tax authorities to follow orders, etc., of the Board.

12. All officers and other persons employed in the execution of this Act shall observe and follow the orders, instructions and directions of the Board: 30

Provided that no orders, instructions, or directions shall be given by the Board so as to interfere with the discretion of the Appellate Assistant Commissioner of Expenditure-tax in the exercise of his appellate functions.

CHAPTER IV

ASSESSMENT

13. (1) Every person whose expenditure for the previous year was of such an amount as to render him liable to expenditure-tax ^{Return of expenditure.} under this Act shall before the thirtieth day of June of the corresponding assessment year furnish to the Expenditure-tax Officer a return in the prescribed form and verified in the prescribed manner setting forth his expenditure for the previous year.

(2) If the Expenditure-tax Officer is of the opinion that the expenditure of any person for any year is of such an amount as to render him liable to expenditure-tax, then, notwithstanding anything contained in sub-section (1), he may serve a notice upon such a person requiring him to furnish within such period, not being less than thirty days, as may be specified in the notice, a return in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be required in the notice relating to the expenditure of such person for the previous year mentioned in the notice.

(3) The Expenditure-tax Officer may, if he is satisfied that it is necessary to do so, extend the date for the delivery of the return under this section.

14. If any person has not furnished a return within the time allowed under section 13, or having furnished a return under that section discovers any omission or a wrong statement therein, he ^{Return after the due date and amendment of return.} may furnish a return or a revised return, as the case may be, at any time before the assessment is made.

15. (1) If the Expenditure-tax Officer is satisfied without requiring the presence of the assessee or production by him of any evidence that a return made under section 13 or section 14 is correct and complete, he shall assess the taxable expenditure of the assessee and determine the amount payable by him as expenditure-tax. ^{Assessment}

(2) If the Expenditure-tax Officer is not so satisfied, he shall serve a notice on the assessee, requiring him either to attend in person at his office on a date to be specified in the notice, or to produce or cause to be produced on that date any evidence on which the assessee may rely in support of his return.

(3) The Expenditure-tax Officer, after hearing such evidence as the person may produce and such other evidence as he may require on any specified points, shall, by order in writing, assess the taxable expenditure of the assessee and determine the amount payable by him as expenditure-tax.

(4) For the purpose of making an assessment under this Act, the Expenditure-tax Officer may serve on any person who has made a return under sub-section (1) of section 13 or upon whom a notice has been served under sub-section (2) of that section, a notice requiring him to produce or cause to be produced on a date specified in the notice such accounts, records or other documents as the Expenditure-tax Officer may require.

(5) If any person fails to make a return in response to any notice under sub-section (2) of section 13 or fails to comply with the terms of any notice issued under sub-section (2) or sub-section (4), the Expenditure-tax Officer shall make the assessment to the best of his judgment and determine the amount payable by the person as expenditure-tax on the basis of such assessment.

Expenditure
escaping as-
essment.

16. If the Expenditure-tax Officer—

(a) has reason to believe that by reason of the omission or failure on the part of the assessee to make a return of his expenditure under section 13 for any assessment year, or to disclose fully and truly all material facts necessary for his assessment for that year, the expenditure chargeable to tax has escaped assessment for that year, whether by reason of under-assessment or assessment at too low a rate or otherwise; or

(b) has in consequence of any information in his possession reason to believe, notwithstanding that there has been no such omission or failure as is referred to in clause (a), that the expenditure chargeable to tax has escaped assessment for any assessment year, whether by reason of under-assessment or assessment at too low a rate or otherwise;

he may, in cases falling under clause (a) at any time within eight years and in cases falling under clause (b) at any time within four years of the end of that assessment year, serve on the assessee a notice containing all or any of the requirements which may be included in a notice under sub-section (2) of section 13, and may proceed to assess or reassess such expenditure, and the provisions of this Act shall, so far as may be, apply as if the notice had issued under that sub-section.

Penalty for
concealment

17. (1) If the Expenditure-tax Officer, Appellate Assistant Commissioner, Commissioner or Appellate Tribunal in the course of any proceedings under this Act is satisfied that any person—

(a) has without reasonable cause failed to furnish the return of his expenditure which he is required to furnish under sub-section (1) or sub-section (2) of section 13 or section 16, or has without reasonable cause failed to furnish it within the time allowed and in the manner required; or

(b) has without reasonable cause failed to comply with a notice under sub-section (2) or sub-section (4) of section 15; or

(c) has concealed the particulars of any expenditure or deliberately furnished inaccurate particulars thereof, he or it may
5 by order in writing, direct that such person shall pay by way of penalty—

(i) in the case referred to in clause (a), in addition to the amount of expenditure-tax payable by him a sum not exceeding one-and-a-half times the amount of such tax, and

10 (ii) in the case referred to in clause (b) or clause (c), in addition to the amount of expenditure-tax payable by him a sum not exceeding one-and-a-half times the amount of the tax, if any, which would have been avoided if the expenditure returned by such person had been accepted as correct

15 (2) No order shall be made under sub-section (1) unless the person concerned has been given a reasonable opportunity of being heard.

(3) No prosecution for an offence under this Act shall be instituted in respect of the same facts in relation to which a penalty
20 has been imposed under this section.

(4) The Expenditure-tax Officer shall not impose any penalty under this section without the previous approval of the Inspecting Assistant Commissioner of Expenditure-tax.

CHAPTER V

25 LIABILITY TO ASSESSMENT IN SPECIAL CASES

18. (1) Where a person dies, his executor, administrator or other legal representative shall be liable to pay out of the estate of the deceased person to the extent to which the estate is capable of meeting the charge, the expenditure-tax assessed as payable by such
30 persons, or any sum which would have been payable by him under this Act if he had not died.

Tax of deceased persons payable by legal representative.

(2) Where a person dies without having furnished a return under the provisions of section 13 or after having furnished a return which the Expenditure-tax Officer has reason to believe to be incorrect
35 or incomplete, the Expenditure-tax Officer may make an assessment of the expenditure of such person and determine the expenditure-tax payable by the person on the basis of such assessment, and for this purpose may, by the issue of the appropriate notice which would have had to be served upon the deceased person if he had survived,
40 require from the executor, administrator or other legal representative of the deceased person any accounts, documents or other evidence which might under the provisions of section 15 have been required from the deceased person.

(3) The provisions of section 13, section 14 and section 15 shall apply to an executor, administrator or other legal representative as they apply to any person referred to in those sections.

Assessment
after parti-
tion of a
Hindu un-
divided
family.

19. (1) Where, at the time of making an assessment, it is brought to the notice of the Expenditure-tax Officer that a partition has taken place among the members of a Hindu undivided family, and the Expenditure-tax Officer, after inquiry, is satisfied that *** the joint family property has been partitioned as a whole among the various members or groups of members in definite portions he shall record an order to that effect, and make assessments on the expendi- 10
ture of the undivided family as such for the assessment year or years including the year relevant to the previous year in which the partition has taken place, and each member or group of members shall be liable jointly and severally for the tax assessed on the expenditure of the joint family as such. 15

(2) Where the Expenditure-tax Officer is not so satisfied, he may, by order, declare that such family shall be deemed for the purposes of this Act to continue to be a Hindu undivided family liable to be assessed as such.

Settlement of
Tax payable
in certain
cases.

20. (1) Where an assessee who is in receipt of sums guaranteed 20
or assured by the Central Government as his privy purse applies to the Central Government in the prescribed manner and within the prescribed time for the settlement of the expenditure-tax payable by him under this Act for any assessment year, then, notwithstanding anything contained in Chapter IV, the Central Government 25
may, having regard to the obligations which according to the practice, usage or tradition of the family to which the assessee belongs have to be or are being discharged by him, assess the expenditure-tax payable by him for the assessment year, to be such sum as to the Central Government appears proper. 30

(2) Any order assessing any sum as being payable for any assessment year under sub-section (1) may, if the Central Government so directs, have effect for any subsequent assessment year or years.

CHAPTER VI

35

APPEALS, REVISIONS AND REFERENCES

Appeal to
the Appellate
Assistant
Commissioner from
orders of
Expenditure-
tax Officers.

21. (1) Any person—

(a) objecting to the amount of his taxable expenditure determined under this Act; or

(b) objecting to the amount of expenditure-tax determined 40
as payable by him under this Act; or

(c) denying his liability to be assessed under this Act; or

(d) objecting to any penalty imposed by the Expenditure-tax Officer under section 17; or

(e) objecting to any order of the Expenditure-tax Officer under sub-section (2) of section 19; or

5 (f) objecting to any penalty imposed by the Expenditure-tax Officer under the provisions of sub-section (1) of section 46 of the Income-tax Act as applied under section 30 for the purpose of expenditure-tax;

may appeal to the Appellate Assistant Commissioner against the
10 assessment or order, as the case may be, in the prescribed form and verified in the prescribed manner.

(2) An appeal shall be presented within thirty days of the receipt of the notice of demand relating to the assessment or penalty objected to, or the date on which any order objected to is communi-
15 cated to him, but the Appellate Assistant Commissioner may admit an appeal after the expiration of the period aforesaid if he is satisfied that the appellant had sufficient cause for not presenting the opinion of the High Court.

(3) The Appellate Assistant Commissioner shall fix a day and
20 place for the hearing of the appeal and may from time to time adjourn the hearing.

(4) The Appellate Assistant Commissioner may—

(a) at the hearing of an appeal, allow an appellant to go into any ground of appeal not specified in the grounds of appeal;

25 (b) before disposing of an appeal, make such further inquiry as he thinks fit or cause further inquiry to be made by the Expenditure-tax Officer.

(5) In disposing of an appeal, the Appellate Assistant Commissioner may pass such order as he thinks fit which may include
30 an order enhancing the assessment or penalty:

Provided that no order enhancing an assessment or penalty shall be made unless the person affected thereby has been given a reasonable opportunity of showing cause against such enhancement.

(6) A copy of every order passed by the Appellate Assistant
35 Commissioner under this section shall be forwarded to the appellant and the Commissioner.

22. (1) Any assessee objecting to an order passed by an Appellate Assistant Commissioner under section 21 may appeal to the Appellate Tribunal within sixty days of the date on which he is served with
40 notice of such order.

(2) The Commissioner may, if he is not satisfied as to the correctness of any order passed by an Appellate Assistant Commissioner

Appeal to the Appellate Tribunal from orders of the Appellate Assistant Commissioners.

under section 21, direct the Expenditure-tax Officer to appeal to the Appellate Tribunal against such order, and such appeal may be made at any time before the expiry of sixty days of the date on which the order is communicated to the Commissioner.

(3) The Tribunal may admit an appeal after the expiry of the sixty days referred to in sub-sections (1) and (2) if it is satisfied that there was sufficient cause for not presenting it within that period.

(4) An appeal to the Appellate Tribunal shall be in the prescribed form, and shall be verified in the prescribed manner and shall, except in the case of an appeal referred to in sub-section (2), be accompanied by a fee of one hundred rupees

(5) The Appellate Tribunal may, after giving both parties to the appeal an opportunity of being heard, pass such orders thereon as it thinks fit, and any such orders may include an order enhancing the assessment or penalty:

Provided that no order enhancing an assessment or penalty shall be made unless the person affected thereby has been given a reasonable opportunity of showing cause against such enhancement.

(6) A copy of every order passed by the Appellate Tribunal under this section shall be forwarded to the assessee and the Commissioner.

(7) Save as provided in section 25 any order passed by the Appellate Tribunal on appeal shall be final.

(8) The provisions of sub-sections (5), (7) and (8) of section 5A of the Income-tax Act shall apply to the Appellate Tribunal in the discharge of its functions under this Act as they apply to it in the discharge of its functions under the Income-tax Act.

Power of
Commis-
sioner to
revise orders
of Expendi-
ture-tax
officers, etc.

23. (1) The Commissioner may, either of his own motion or on application made by an assessee in this behalf, call for the record of any proceeding under this Act in which an order has been passed by any authority subordinate to him, and may make such inquiry or cause inquiry to be made and, subject to the provisions of this Act, pass such order thereon, not being an order prejudicial to the assessee, as the Commissioner thinks fit:

Provided that the Commissioner shall not revise any order under this sub-section in any case—

(a) where an appeal against the order lies to the Appellate Assistant Commissioner or to the Appellate Tribunal, the time within which such appeal can be made has not expired or the assessee has not waived his right of appeal to the Appellate Tribunal;

(b) where the order is the subject of an appeal before the Appellate Assistant Commissioner or the Appellate Tribunal;

(c) where the application is made by the assessee for such revision unless—

(i) the application is accompanied by a fee of twenty-five rupees;

5 (ii) the application is made within one year from the date of the order sought to be revised or within such further period as the Commissioner may think fit to allow on being satisfied that the assessee was prevented by sufficient cause from making the application within that period; and

10 (d) where the order is sought to be revised by the Commissioner of his own motion, if such order is made more than one year previously.

Explanation.—For the purposes of this sub-section,—

15 (a) the Appellate Assistant Commissioner shall be deemed to be an authority subordinate to the Commissioner; and

(b) an order by the Commissioner declining to interfere shall be deemed not to be an order prejudicial to the assessee.

(2) Without prejudice to the provisions contained in sub-section
20 (1), the Commissioner may call for and examine the record of any proceeding under this Act and if he considers that any order passed therein by an Expenditure-tax Officer is erroneous in so far as it is prejudicial to the interests of revenue, he may, after giving to the assessee an opportunity of being heard, and after making or causing
25 to be made such inquiry as he deems necessary, pass such order thereon as the circumstances of the case justify, including an order enhancing or modifying the assessment or cancelling it and directing a fresh assessment.

(3) No order shall be made under sub-section (2) after the expiry
30 of two years from the date of the order sought to be revised.

24. (1) Any assessee objecting to an order of enhancement made by the Commissioner under section 23 may appeal to the Appellate Tribunal within sixty days of the date on which the order is communicated to him.

35 (2) An appeal to the Appellate Tribunal under sub-section (1) shall be in the prescribed form and shall be verified in the prescribed manner and shall be accompanied by a fee of rupees one hundred.

(3) The provisions of sub-sections (3), (5), (6) and (7) of section 22 shall apply in relation to any appeal under this section as they
40 apply in relation to any appeal under that section.

25. (1) Within ninety days of the date upon which he is served with an order under section 22 or section 24, the assessee or the Commissioner may present an application in the prescribed form and

Appeal to the Appellate Tribunal from orders of enhancement by Commissioner.

Reference to High Court

where the application is by the assessee, accompanied by a fee of one hundred rupees, to the Appellate Tribunal requiring the Appellate Tribunal to refer to the High Court any question of law arising out of such order, and the Appellate Tribunal shall, if in its opinion a question of law arises out of such order, state the case for the opinion of the High Court. 5

(2) An application under sub-section (1) may be admitted after the expiry of the period of ninety days aforesaid if the Tribunal is satisfied that there was sufficient cause for not presenting it within the said period. 10

(3) If on an application made under sub-section (1) the Appellate Tribunal—

(a) refuses to state a case on the ground that no question of law arises: or

(b) rejects it on the ground that it is time-barred; 15
the applicant may, within three months from the date on which he is served with a notice of refusal or rejection, as the case may be, apply to the High Court, and the High Court may, if it is not satisfied with the correctness of the decision of the Appellate Tribunal, require the Appellate Tribunal to state the case to the High Court, 20 and on receipt of such requisition the Appellate Tribunal shall state the case:

Provided that if in any case where the Appellate Tribunal has been required by an assessee to state a case the Appellate Tribunal refuses to do so on the ground that no question of law arises, the 25 assessee may, within thirty days from the date on which he receives notice of refusal to state the case, withdraw his application, and if he does so, the fee paid by him under sub-section (1) shall be refunded to him.

(4) The statement to the High Court shall set forth the facts, the 30 determination of the Appellate Tribunal and the question of law which arises out of the case.

(5) If the High Court is not satisfied that the case as stated is sufficient to enable it to determine the question of law raised thereby, it may require the Appellate Tribunal to make such modifications 35 therein as it may direct.

(6) The High Court, upon hearing any such case, shall decide the question of law raised therein, and in doing so may, if it thinks fit, alter the form of the question of law and shall deliver judgment thereon containing the ground on which such decision is founded 40 and shall send a copy of the judgment under the seal of the Court and the signature of the Registrar to the Appellate Tribunal and

the Appellate Tribunal shall pass such orders as are necessary to dispose of the case conformably to such judgment.

(7) Where the amount of any assessment is reduced as a result of any reference to the High Court, the amount, if any, over-paid as expenditure-tax shall be refunded with such interest as the Commissioner may allow, unless the High Court, on intimation given by the Commissioner within thirty days of the result of such reference that he intends to ask for leave to appeal to the Supreme Court, makes an order authorising the Commissioner to postpone payment of such refund until the disposal of the appeal in the Supreme Court.

(8) The costs of any reference to the High Court shall be in the discretion of the Court.

9 of 1908.

(9) Section 5 of the Indian Limitation Act, 1908, shall apply to an application to the High Court under this section.

26. Where a case has been stated to the High Court under section 25, it shall be heard by a Bench of not less than two Judges of the High Court and shall be decided in accordance with the opinion of such Judges or of the majority of such Judges:

Hearing by
High Court.

20 Provided that where there is no such majority, the Judges shall state the point of law upon which they differ and the case shall then be heard upon that point only by one or more of the Judges of the High Court, and such point shall be decided according to the opinion of the majority of the Judges who have heard the case, including those who first heard it.

27. (1) An appeal shall lie to the Supreme Court from any judgment of the High Court delivered on a case stated under section 25 in any case which the High Court certifies as a fit case for appeal to the Supreme Court.

Appeal to
the Supreme
Court.

30 (2) Where the judgment of the High Court is varied or reversed on appeal under this section, effect shall be given to the order of the Supreme Court in the manner provided in sub-section (6) of section 25.

(3) The High Court may, on application made to it for the execution of any order of the Supreme Court in respect of any costs awarded by it, transmit the order for execution to any court subordinate to the High Court.

CHAPTER VII

PAYMENT AND RECOVERY OF EXPENDITURE-TAX

40 28. When any tax or penalty is due in consequence of any order passed under this Act, the Expenditure-tax Officer shall serve upon

Notice of
demand.

the assessee or other person liable to pay such tax or penalty a notice of demand in the prescribed form specifying the sum so payable and the time within which it shall be paid.

**Recovery of
tax and
penalties.**

29. (1) Any amount specified as payable in a notice of demand issued under section 28 shall be paid within the time, at the place, 5 and to the person mentioned in the notice, or if no time is so mentioned, then on or before the first day of the second month following the day of service of the notice and any assessee failing so to pay shall be deemed to be in default.

(2) Notwithstanding anything contained in this section where an 10 assessee has presented an appeal under section 21, the Expenditure-tax Officer may in his discretion treat the assessee as not being in default as long as such appeal is undisposed of.

**Mode of
recovery.**

30. The provisions of sub-sections (1), (1A), (2), (3), (4), (5), 15 (5A), (6) and (7) of section 46 and section 47 of the Income-tax Act shall apply as if the said provisions were provisions of this Act and referred to expenditure-tax and sums imposed by way of penalty under this Act instead of to income-tax and sums imposed by way of 20 penalty under that Act and to Expenditure-tax Officer and Commissioner of Expenditure-tax instead of to Income-tax Officer and Com- missioner of Income-tax.

CHAPTER VIII

MISCELLANEOUS

**Rectification
of mistakes.**

31. At any time within four years from the date of any order 25 passed by him, or it, the Commissioner, the Expenditure-tax Officer, the Appellate Assistant Commissioner or the Appellate Tribunal may on his or its own motion rectify any mistake apparent from the record and shall, within a like period, rectify any such mistake which has been brought to the notice of the Commissioner, the Ex- 30 penditure-tax Officer, the Appellate Assistant Commissioner or the Appellate Tribunal, as the case may be, by an assessee:

Provided that no such rectification shall be made which has the effect of enhancing an assessment unless the assessee has been given a reasonable opportunity of being heard in the matter.

Prosecutions

32. (1) If a person fails without reasonable cause— 35

(a) to furnish in due time any return mentioned in section 13,

(b) to produce, or cause to be produced on or before the date mentioned in any notice under sub-section (2) or sub-section (4)

of section 15 such accounts, records and documents as are referred to in the notice;

- (c) to furnish within the time specified any statement or information which such person is bound to furnish to the Expenditure-tax Officer under section 34;

he shall, on conviction before a magistrate, be punishable with fine which may extend to ten rupees for every day during which the default continues.

- (2) If a person makes a statement in a verification mentioned in section 13, section 21, section 22, or section 24, which is false, and which he either knows or believes to be false, or does not believe to be true, he shall be punishable with simple imprisonment which may extend to one year or with fine which may extend to one thousand rupees or with both.

- (3) A person shall not be proceeded against for an offence under this section except at the instance of the Commissioner.

- (4) The Commissioner may either before or after the institution of proceedings compound any such offence.

Explanation.—For the purposes of this section “magistrate” means a presidency magistrate, a magistrate of the first class, or a magistrate of the second class specially empowered by the Central Government to try offences under this Act.

33. The Commissioner, the Expenditure-tax Officer, the Appellate Assistant Commissioner and the Appellate Tribunal shall, for the purposes of this Act, have the same powers as are vested in a court under the Code of Civil Procedure, 1908, when trying a suit in respect of the following matters, namely:—

Power to take evidence on oath, etc.

- (a) enforcing the attendance of any person and examining him on oath;
(b) requiring the discovery and production of documents;
(c) receiving evidence on affidavit;
(d) issuing commissions for the examination of witnesses;

and any proceeding before the Commissioner, the Expenditure-tax Officer, the Appellate Assistant Commissioner or the Appellate Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code.

34. Where, for the purposes of determining the expenditure-tax payable by any person, it appears necessary for the Expenditure-tax Officer to obtain any statement or information from any individual,

Information, returns and statements.

Hindu undivided family, company or any other person, the Expenditure-tax Officer may serve a notice requiring such individual, Hindu undivided family, company or other person on or before a date to be therein specified, to furnish such statement or information on the points specified in the notice, and the individual, the 5 manager of the Hindu undivided family, the principal officer of the company or other person, as the case may be, shall, notwithstanding anything in any law to the contrary, be bound to furnish such statement or information to the Expenditure-tax Officer:

Provided that no legal practitioner shall be bound to furnish 10 any statement or information under this section based on any professional communications made to him otherwise than as permitted by section 126 of the Indian Evidence Act, 1872.

Effect of
transfer of
authorities
on pending
proceedings.

35. Whenever in respect of any proceeding under this Act any Expenditure-tax authority ceases to exercise jurisdiction and is suc- 15 ceeded by another who has and exercises such jurisdiction, the authority so succeeding may continue the proceedings from the stage at which the proceeding was left by his predecessor.

Computation
of periods of
limitation.

36. In computing the period of limitation prescribed for an appeal under this Act or for an application under section 25, the day on 20 which the order complained of was made and the time requisite for obtaining a copy of such order shall be excluded.

Service of
notice.

37. (1) A notice or a requisition under this Act may be served on the person therein named either by post or as if it were a summons issued by a court under the Code of Civil Procedure, 1908.

25 5 of 1908.

(2) Any such notice or requisition may, in the case of a Hindu undivided family be addressed to the manager or any adult male member of the family

Prohibition
of disclo-
sure of in-
formation.

38. (1) Subject to the provisions contained in sub-section (2), the provisions of section 54 of the Income-tax Act shall apply to all 30 accounts or in relation to statements, documents, evidence or affidavits given, produced or obtained in connection with or in the course of any proceeding under this Act, as they apply to or in relation to similar particulars under that Act, subject to the modification that the reference to any Income-tax authority in clause (d) of sub- section (2) and to the Commissioner in sub-section (5) of section 54 35 of that Act shall be construed as a reference to any Expenditure-tax authority and to the Commissioner of Expenditure-tax respectively.

(2) Nothing contained in section 54 of the Income-tax Act shall apply to the disclosure of any such particulars as are referred to in 40 sub-section (1) to any person acting in the execution of this Act or

34 of 1953

the Income-tax Act or the Estate Duty Act, 1953, or the Wealth-tax Act, 1957, where it is necessary or desirable to disclose the same to him for the purpose of this Act or any of the other Acts aforesaid.

39. * * * * * No suit shall lie in any civil court to set aside or modify any assessment made under this Act, and no prosecution, suit or other legal proceeding shall lie against any officer of the Government for anything in good faith done or intended to be done under this Act.

Bar of jurisdiction.

40. Any assessee who is entitled to or required to attend before any Expenditure-tax authority or the Appellate Tribunal in connection with any proceeding or inquiry under this Act, except where he is required under this Act to attend in person, may attend by a person authorised by him in writing in this behalf, being a relative of, or a person regularly employed by, the assessee, or a legal practitioner or a chartered accountant, or any other person having such qualifications as may be prescribed.

Appearance before Expenditure-tax authorities by authorised representatives.

Explanation.—For the purposes of this section,—

(a) the expression “a person regularly employed by the assessee” includes any officer of a Scheduled Bank with which the assessee maintains a current account or has other regular dealings;

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(b) “Chartered Accountant” means a Chartered Accountant as defined in the Chartered Accountants Act, 1949.

37 of 1949

41. (1) The Board may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

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Power to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, rules made under this section may provide for—

(a) the form in which returns under this Act shall be made, and the manner in which they shall be verified;

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(b) the form in which appeals and applications under this Act may be made, and the manner in which they shall be verified;

(c) the form of any notice of demand under this Act;

(d) any other matter which has to be or may be prescribed for the purposes of this Act.

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(3) All rules made under this Act shall be laid before each House of Parliament, as soon as may be, after they are made, and shall be subject to such modifications as Parliament may make during the session in which they are so laid or the session immediately following.

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THE SCHEDULE

(See section 3)

RATES OF EXPENDITURE-TAX

In the case of every individual and Hindu undivided family, on that portion of the taxable expenditure—

(i) which does not exceed Rs. 10,000	10%
(ii) which exceeds Rs. 10,000 but does not exceed Rs. 20,000	20% ⁵
(iii) which exceeds Rs. 20,000 but does not exceed Rs. 30,000	40%
(iv) which exceeds Rs. 30,000 but does not exceed Rs. 40,000	60% ¹⁰
(v) which exceeds Rs. 40,000 but does not exceed Rs. 50,000	80%
(vi) which exceeds Rs. 50,000	100%

M. N. KAUL,
Secretary. 15